

# UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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In Re:

RONALD BRASHER, LICENSEE OF  
PRIVATE LAND MOBILE STATIONS  
WPLQ202, WPCG967, WPL0495,  
WPKH771, WPKI739, WPKI733,  
WPKI707, WIL990, WPLQ45,  
WPLY658, WPKY903, WPKY901,  
WPLZ533, WPKI762 AND WPDU262,  
DALLAS/FORT WORTH, TEXAS, et al.

No. 00-156

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## HERITAGE REPORTING CORPORATION

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**ORIGINAL**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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DALLAS/FORT WORTH, TEXAS, et al.	)	

Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A-363  
Washington, D.C. 20554

Friday,  
March 2, 2001

The parties met, pursuant to the notice of the  
Judge, at 9:00 a.m.

BEFORE: HONORABLE ARTHUR I. STEINBERG  
Administrative Law Judge

Heritage Reporting Corporation  
(202) 628-4888

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
David L. Brasher	905	996 1017	1022	1044	
Jennifer Gail Sumpter Hill	1045	1070 1106	1119	1123	

E X H I B I T SIDENTIFIEDRECEIVEDREJECTEDRonald Brasher/Patricia Brasher:

RB/PB-4

1088



1 Q What are their names and ages, please?

2 A Michael David Brasher is 20 years old and I have  
3 Haley Ann Brasher who has just turned 15.

4 Q Can you summarize your educational background for  
5 the Court?

6 A Approximately two years of junior college.

7 Q Okay. And your work history prior to coming to  
8 DLB, say, ten years prior to coming to DLB, what had you  
9 done?

10 A I was in data processing and several management  
11 positions within major corporations.

12 Q Okay. I believe --

13 A It's all one long service date, multiple buyouts.  
14 I stayed at the place, but the place changed.

15 Q The company name changed.

16 A Yes.

17 Q Even though you kept the same position basically.

18 A Yes.

19 Q What was the company name at the end?

20 A IBM.

21 Q When did you come to work for DLB?

22 A April 1, 1997.

23 Q Had you had any connection at all with DLB prior  
24 to that time?

25 A I had always been an officer since the inception

1 of the corporation and in that capacity we had associations,  
2 communications back and forth, as well as communications  
3 with my career back and forth.

4 Q You participated in discussions about the business  
5 prior to actually going to work for DLB?

6 A Yes.

7 Q What is your current position with DLB?

8 A As it was from the inception, I'm the vice  
9 president.

10 Q So you have had no change of title or no change of  
11 responsibilities?

12 A The responsibility, I was vice president from the  
13 day of inception and as I learned in prior testimony from  
14 Pat it was mainly because I was in town because she needed  
15 that in case she needed to make decisions for the  
16 corporation.

17 Q Mr. Brasher, I'd ask you not to reiterate what the  
18 prior testimony was, but to tell me what you know about  
19 personally.

20 A Okay. I was vice president from the inception.  
21 My involvement in the business did not get really -- until  
22 I started to work there.

23 Q What is your current salary from DLB?

24 A Anywhere from 90 to 92.

25 Q Do you have any other income?



1 A No, ma'am.

2 Q How about your wife?

3 A Her salary?

4 Q Yes.

5 A It should be the same as mine.

6 Q And does she have any other income?

7 A No, ma'am.

8 Q Do you receive other benefits from DLB?

9 A No, ma'am.

10 Q Do you have health insurance?

11 A Oh, yes. Yes. I have health insurance.

12 Q Life insurance?

13 A Not yet.

14 Q Is the liability coverage on your vehicle covered  
15 by DLB?

16 A No, ma'am.

17 Q Do you receive any type of office equipment  
18 allowance?

19 A No, ma'am.

20 Q Do you have radios in your cars?

21 A No, ma'am.

22 Q Cell phones?

23 A My personal vehicles, no.

24 Q You have a vehicle provided to you by DLB?

25 A I have a vehicle that I drive on occasion.

1           Q     When you say "on occasion," how often do you drive  
2     that vehicle each week?

3           A     Two to three times each week.

4           Q     And it has a phone in it?

5           A     It has a two-way radio.

6           Q     Do you have a cell phone provided by DLB?

7           A     No.

8           Q     Do you know the yearly gross income of DLB for the  
9     past year?

10          A     2.4 million.

11          Q     And do you know what the net would be for DLB in  
12     the past year?

13          A     I would have to look at the books.  No.

14          Q     Okay.  Do you know the percentage of the gross  
15     income that comes from repeater fees?

16          A     Anywhere from 40 to 60 to 70 percent.

17          Q     40 to 70 percent?

18          A     Mm-hmm.

19          Q     That's as close as you can get it?

20          A     Well, the repeater service is a segue into  
21     service, into sales into maintenance and so on, so for  
22     just -- they all feed each other.

23          Q     Okay.  But I asked you specifically, do you know  
24     the percentage of the gross income from the repeater fees  
25     themselves.

1           A     From 10 to 25 percent.

2           Q     So it could possibly be as low as 10 percent, but  
3     once you count in that those repeater fees lead to the  
4     maintenance and the sales of equipment and that sort of  
5     thing, it could go as high as 70 percent.

6           A     Yes.

7           Q     Is that your testimony?

8           A     Yes.

9           Q     How many bank accounts are used by DLB?

10          A     Two.

11          Q     I believe there's a DLB account and a Brasher  
12     account. Is that correct?

13          A     Yes.

14          Q     Do you know what each one is used for?

15          A     The DLB account is my day-to-day account for  
16     running the business, where the monies that customers send  
17     in that is deposited on a daily basis, also where the checks  
18     are paid for the outstanding bills and so on, as well as  
19     anything else for operation of the company.

20          Q     Okay. And what's the Brasher account used for?

21          A     The Brasher account, from my understanding, is  
22     primarily for the repeater system power side payments.

23          Q     Okay. Do you write checks on either of these  
24     accounts?

25          A     I have authority for DLB. I don't know about

1 Brasher.

2 Q You don't know if you have authority?

3 A For Brasher.

4 Q Okay. But do you ever write checks on the DLB  
5 account?

6 A I have. Yes.

7 Q Okay. I assume, correct me if I'm wrong, I assume  
8 you have never written a check on the Brasher account.

9 A I have never written a check on the Brasher  
10 account.

11 Q Okay. When you need a check, do you ever request  
12 checks be written on the Brasher account?

13 A I have no reason to.

14 Q Is that a no?

15 A That's a no. I'm sorry.

16 Q Mr. Brasher, you received a copy of the Net Wave  
17 petition. Is that correct?

18 A Yes, ma'am. I did.

19 Q What did you do when you received it?

20 A Contacted -- sat down and talked with my father,  
21 Mr. Brasher, Ronald Brasher.

22 Q And you talked with your mother also?

23 A Yes.

24 Q And your wife?

25 A Sure.

1 Q You had a family discussion about it?

2 A Not all at once. I'm sorry. It was conversation  
3 with Ron and then I had conversation with Pat. It wasn't --  
4 I guess you'd call it -- like called a meeting or anything,  
5 it was like, you know, what are we going to do, how are we  
6 going to do this, what's this, you know.

7 Q Okay. I'd like for you to turn to Exhibit 2 in  
8 the notebooks in front of you.

9 Are you there?

10 A Yes.

11 Q Do you recognize that as a copy of the opposition  
12 that was filed with the FCC on your behalf?

13 A Yes, I recognize it as that.

14 Q Did you authorize the filing of this document on  
15 your behalf?

16 A I read it, gave it to Ron and Ron submitted it  
17 Schwaninger or whoever it was at that time, Brown, and  
18 I assume they did.

19 Q So that was okay with you?

20 A Yes. At that time.

21 Q And did you authorize the filing of this document  
22 as an officer of DLB?

23 A Yes.

24 Q Please turn to Exhibit #19.

25 JUDGE STEINBERG: Can I just ask a question?

1 MS. LANCASTER: Certainly.

2 JUDGE STEINBERG: I mean, when you say did you  
3 authorize this filing as an officer of DLB, did you think to  
4 yourself I'm a vice president of DLB and when you handed it  
5 to your father, I hereby authorize this filing? Or did you  
6 just and it to him and say it's okay with me? Or did you  
7 say nothing? I'm trying to determine what was in your mind  
8 when you read it.

9 THE WITNESS: Can I put this into a timeframe?

10 JUDGE STEINBERG: Sure. You can answer it any way  
11 you want to.

12 THE WITNESS: Your Honor, at this time here, I was  
13 virtually new to the organization, I'd say about six months  
14 into the licensing end of it. I had yet to be trained or  
15 understand -- yes, I did have a license, I understand the  
16 importance of licensing and so on.

17 This here, I felt that by giving it -- turning the  
18 responsibility, I guess, or turning it over to my father --  
19 by turning that over or saying, you know, we'll handle it,  
20 it will get handled.

21 JUDGE STEINBERG: And was that -- I mean, is that  
22 what you said, we'll handle it, or is that what you said?

23 THE WITNESS: Well, we had discussion that, you  
24 know, it will get handled, we'll take care of it. And  
25 that's, I guess, the way -- you know, I have to look at it

1 as that, yes, I looked at it; yes, I did go through it; yes,  
2 I did agree and I didn't see any problem with it.  
3 I really -- you know, at that time, I felt like Net Wave was  
4 trying to stop us in the marketplace or trying to throw up  
5 road blocks. That was my frame of mind at that time.

6 JUDGE STEINBERG: Okay. And it's not something  
7 like here's a memo and I authorize this opposition to be  
8 filed and you initialled DB for David Brasher.

9 THE WITNESS: Oh, no.

10 JUDGE STEINBERG: It wasn't anything formal.

11 THE WITNESS: Oh, no, sir. No, sir. It was not.

12 JUDGE STEINBERG: You just handed it to your  
13 father and said looks okay to me or something like that?

14 THE WITNESS: Sure. That fashion. Yes, sir.

15 BY MS. LANCASTER:

16 Q At the time you were working at DLB, right?

17 A Yes, ma'am. I was.

18 Q And you did have conversations in detail about the  
19 Net Wave petition, correct? There were a lot of discussions  
20 about the Net Wave petition?

21 A Okay. When you say detail --

22 Q You discussed the allegations that were contained  
23 in the Net Wave petition, didn't you?

24 A Oh, yes. Yes.

25 Q And you discussed what your response was going to

1 be to each allegation, didn't you?

2 A To some degree.

3 Q Would you turn to Exhibit 17? Are you there?

4 A Yes, I am.

5 Q Do you recognize this document?

6 JUDGE STEINBERG: Take your time. If you need  
7 time to read it, we'll go off the record and let you read  
8 it. Whatever you feel comfortable with doing.

9 THE WITNESS: Can I have a few minutes, sir?

10 JUDGE STEINBERG: Yes. We'll go off the record.

11 (A brief recess was taken.)

12 JUDGE STEINBERG: Mr. Brasher, while we were off  
13 the record, did you view Bureau Exhibit 17?

14 THE WITNESS: Yes, Your Honor. I did.

15 JUDGE STEINBERG: Okay.

16 Ms. Lancaster?

17 BY MS. LANCASTER:

18 Q Do you recognize that document?

19 A I don't recognize this document.

20 Q Have you not see that document before?

21 A This particular document, I don't remember  
22 reviewing it or seeing it. I've reviewed a lot of  
23 documents, but I don't particularly remember this document.

24 Q Okay. What did you do to prepare your testimony  
25 today?



1 MR. PEDIGO: Objection. Calls for attorney-client  
2 communications.

3 MS. LANCASTER: I disagree, Your Honor. He can  
4 say he discussed with his attorney and then he can tell what  
5 else he did.

6 JUDGE STEINBERG: Well --

7 MS. LANCASTER: I mean, the fact that he had  
8 talked with his attorney is not a violation of the  
9 attorney-client privilege.

10 JUDGE STEINBERG: I don't see the relevance to  
11 this.

12 MS. LANCASTER: I'd like to know what he reviewed  
13 prior to coming in here and that would have been a follow-up  
14 question.

15 JUDGE STEINBERG: Well, ask if he reviewed No. 17  
16 before he came in today.

17 MS. LANCASTER: Well, I would like to get a  
18 general sense of what he has reviewed before I go on to  
19 every document so I don't have to repeat that line of  
20 questioning every time.

21 JUDGE STEINBERG: Okay. I'll give you a little  
22 bit of leeway, but don't get into the substantive of --

23 MS. LANCASTER: I'm not going to ask him about his  
24 conversations with his attorney.

25 JUDGE STEINBERG: You can ask and he might waive

1 it. I don't know. Or Mr. Brasher might.

2 Okay. Why don't you -- you can go ahead, in a  
3 general way.

4 BY MS. LANCASTER:

5 Q What did you do to prepare to testify today?

6 A I reviewed what I thought was my realm of  
7 responsibility from the timeframe of 1997 forward. Yes,  
8 I was an officer of DLB. I've got to put -- I have a hard  
9 time understanding what I knew at that time and what I have  
10 gained.

11 Q Well, let me stop you and ask more specific  
12 questions. Did you receive copies of all of the documents  
13 that have been filed on your behalf or on behalf of DLB?  
14 Have you had a chance to look at all documents that have  
15 been filed?

16 A I've looked at a lot of documents, ma'am.

17 Q Is that a yes or a no?

18 A Yes.

19 Q Okay. So at some point in time, you did at least  
20 look at what has been marked as Exhibit 17.

21 A There's a possibility I could have, yes.

22 Q You just don't recall it?

23 A I just don't recall it.

24 Q Okay. Do you realize that Exhibit 17 was  
25 submitted on behalf of DLB Enterprises?

1           A     Yes, ma'am. That's what it reads.

2           MR. PEDIGO: Objection, Your Honor. I think the  
3 first page of this says --

4           No, the first page, the cover letter says "We  
5 represent the radio system interests of Ronald D. Brasher."

6           MS. LANCASTER: Your Honor, I will specifically  
7 ask him about the first page versus the second page.

8           JUDGE STEINBERG: Well, the documents speak for  
9 themselves and you've got the testimony of the witness that  
10 he hadn't -- if he saw it, he doesn't remember it.

11          MS. LANCASTER: Correct. I understand.

12          JUDGE STEINBERG: Okay. That's the testimony.  
13 Ask your next question.

14          BY MS. LANCASTER:

15          Q     In 1998, did you feel that you had any input  
16 regarding the position that DLB took with the FCC? If they  
17 made representations to the FCC, did you have any input  
18 regarding what their position was going to be, what DLB's  
19 position was going to be?

20          A     Can you explain who is they? You know, you  
21 said --

22          Q     Any document that was filed on behalf of DLB.

23          A     Okay.

24          Q     Was basically telling the FCC what DLB's position  
25 was about whatever the subject of that document was. Do you

1 understand that so far?

2 A Mm-hmm.

3 JUDGE STEINBERG: Is that yes?

4 THE WITNESS: Yes.

5 BY MS. LANCASTER:

6 Q Back in 1998, did you think that you had any input  
7 in determining what those documents were going to say that  
8 were filed with the Commission on behalf of DLB?

9 A The communication that I had or conversation was  
10 through Ron through the attorneys.

11 Q Correct. And did you -- I'm sorry, go ahead.

12 A That's basically the way we communicated. I felt  
13 it was being handled by Ron and his attorneys.

14 Q Okay. Did you voice your opinion about these  
15 various matters to Ron?

16 A On the issues that -- if there was issues that  
17 I needed to be involved with, sure.

18 Q Okay.

19 A But not all issues.

20 Q Okay. Exhibit 17 was submitted to the FCC. Did  
21 you think that you needed to voice your opinion about the  
22 statements that went into Exhibit 17?

23 A I don't remember this. I don't remember this  
24 particular document.

25 JUDGE STEINBERG: Look at Exhibit 16.

1           Now, I think we can stipulate that Exhibit 17 is  
2     the response to Exhibit 16. Anybody have any problem with  
3     that?

4           MR. PEDIGO: No, Your Honor.

5           JUDGE STEINBERG: And just -- if you want to  
6     review Exhibit 16, my question is did you ever see this  
7     letter at or about the time it was written, let's say in  
8     late 1998?

9           THE WITNESS: No, sir.

10          JUDGE STEINBERG: You didn't see the letter?

11          THE WITNESS: No.

12          BY MS. LANCASTER:

13          Q     You never saw Exhibit 16, is your testimony?

14          A     No, I did not.

15          JUDGE STEINBERG: Okay. At or about the time --  
16     we're talking about the time period about November -- for  
17     about the month after November 9th, did you have discussions  
18     with your parents about the questions the Commission is  
19     asking in Exhibit 16?

20                 Did they ask for your input with respect to any of  
21     these questions, the questions in 16, if you can remember?  
22     If you can remember.

23          THE WITNESS: Not that I'm trying to not answer  
24     you, to the best of my knowledge, we had conversations, but  
25     I don't know if it pertains to these two items, sir.

1 I mean, I would do research for him and I would pull  
2 information up, I would pull documents, you know, go to the  
3 websites, pull customer information, things like that, but I  
4 might not have known it pertained to this particular item,  
5 16 and 17. I was more the research person.

6 BY MS. LANCASTER:

7 Q And is it your testimony that you have never -- at  
8 any time since Exhibit 17 has been filed, that you have  
9 never read it and formed an opinion about the statements  
10 contained in it?

11 MR. PEDIGO: Objection, Your Honor.

12 JUDGE STEINBERG: It's compound. Why don't you  
13 say read it and then --

14 MS. LANCASTER: Well, he's stated he's read it at  
15 some point.

16 JUDGE STEINBERG: Well, he read it this morning.

17 MS. LANCASTER: Right.

18 BY MS. LANCASTER:

19 Q Prior to this morning, did you ever read this  
20 document thoroughly enough to form an opinion about whether  
21 the statements contained in it are truthful?

22 A No.

23 Q Let's go to Exhibit 19, which is the big exhibit.

24 JUDGE STEINBERG: The giant notebook.

25 Let's see if you can match your parents' skill and

1 ability to just pick a page at random and have that page  
2 that we're asking questions about.

3 THE WITNESS: That's scary.

4 JUDGE STEINBERG: I mean, both your parents did  
5 it, so it might be genetic.

6 THE WITNESS: It skipped a generation.

7 JUDGE STEINBERG: Of course, you could just pick a  
8 page at random and tell Ms. Lancaster that she can find a  
9 question for that page.

10 MS. LANCASTER: I'm sure I can.

11 JUDGE STEINBERG: That's not the way it worked the  
12 other couple of days.

13 BY MS. LANCASTER:

14 Q Do you recognize this document, Mr. Brasher?

15 JUDGE STEINBERG: You'll have to go to the front.

16 THE WITNESS: I was waiting on a page number.

17 MS. LANCASTER: I didn't know what page you were  
18 on. I would have asked you about that first.

19 JUDGE STEINBERG: 229.

20 MS. LANCASTER: Just kidding.

21 BY MS. LANCASTER:

22 Q Do you recognize this document?

23 JUDGE STEINBERG: If you want, we can go off the  
24 record while you take a look at it.

25 THE WITNESS: Jut two minutes, sir.

1 JUDGE STEINBERG: Okay. Sure.

2 (Pause.)

3 THE WITNESS: Okay. I'm ready now.

4 BY MS. LANCASTER:

5 Q Have you had an opportunity to look at it?

6 A Yes.

7 Q Do you recognize it?

8 A I've seen it in part, yes.

9 Q Have you ever seen the letter part of it?

10 That's --

11 JUDGE STEINBERG: It's the first 11 pages.

12 MS. LANCASTER: Okay. Thank you, Your Honor.

13 BY MS. LANCASTER:

14 Q Have you ever seen the first 11 pages?

15 A I've seen parts of the first 11 pages. Yes,  
16 ma'am.

17 Q Is today the first time you've read the whole  
18 first 11 pages?

19 A Actually, I breezed it. I did not read it word  
20 for word.

21 Q Have you ever read it word for word?

22 A No, ma'am.

23 Q Were you ever consulted about the response  
24 contained in Exhibit 19?

25 A In part, some of it. Yes, ma'am.



1 Q Which parts?

2 A I'm looking.

3 (Pause.)

4 JUDGE STEINBERG: Can you answer the question now?

5 THE WITNESS: I think so.

6 If you'll re-ask that question?

7 BY MS. LANCASTER:

8 Q I said which parts -- well, let the court reporter  
9 read my last question back, if you don't mind.

10 JUDGE STEINBERG: Well, I think the question was  
11 whether Mr. Brasher was consulted about the responses in the  
12 first 11 pages and he said he was consulted in part about  
13 the responses and the question was which parts.

14 MS. LANCASTER: Which parts.

15 JUDGE STEINBERG: So he can -- it's hard to get  
16 back to it.

17 BY MS. LANCASTER:

18 Q Which parts were you consulted about?

19 A Nothing in particular to the document, but  
20 background information. Just general information and  
21 conversations. I wasn't involved in the preparation of a  
22 response like for response 4, A, B, or C or any of that. It  
23 was just mainly conversations, what do you think about this  
24 or what's going on. In reference to this document, I did  
25 not prepare it or sit down formally with Ron or anything.

1 Q And you have not reviewed it?

2 A No.

3 Q Even as of today, you have not reviewed it?

4 A No, I was looking at, I was just reviewing it now.

5 Q But not thoroughly.

6 A Pretty much so now.

7 Q Okay. Tell me, are you familiar with all the  
8 documents that are contained in it, the exhibits? Did you  
9 provide any of the exhibits?

10 JUDGE STEINBERG: Now we're going to have to give  
11 him an opportunity to look at the exhibits if you're going  
12 to ask if he helped provide them.

13 MS. LANCASTER: Well, Your Honor, when he says  
14 part of it he did and part of it he didn't, I think we need  
15 to know which parts he did and which parts he didn't have  
16 anything to do with.

17 JUDGE STEINBERG: Well, then, he's going to have  
18 to look at each page, if that's what the question is.

19 Let me just ask, this document is dated April 5,  
20 1999. Do you recall seeing this document -- let's just  
21 limit it to the first 11 pages because that's all you really  
22 looked at, that's all you really looked at today.

23 THE WITNESS: Yes.

24 JUDGE STEINBERG: Do you recall on or about April  
25 15, 1999 reviewing a letter like this?

1 THE WITNESS: Never reviewed the letter,  
2 Your Honor.

3 JUDGE STEINBERG: Or a draft of a letter like  
4 this?

5 THE WITNESS: No, sir, I did not.

6 JUDGE STEINBERG: Do you remember ever seeing a  
7 document that looked this thick at or around April 5, 1999,  
8 a little before, a little after?

9 THE WITNESS: There may be some research that  
10 I did for Ron, he would say look up this particular item  
11 here or go get me this particular product here, and I would  
12 bring it to him and he would either write the response or  
13 handle it himself.

14 JUDGE STEINBERG: Ms. Lancaster, I mean, I've got  
15 all day.

16 THE WITNESS: I'm not being elusive, Your Honor.

17 JUDGE STEINBERG: I know. The only thing you can  
18 do is answer to the best of your ability.

19 BY MS. LANCASTER:

20 Q Mr. Brasher, did you sign management agreements as  
21 part of the preparation of this document, Exhibit 19?

22 A Is a management agreement a part of this  
23 documentation?

24 Q No, I said did you sign one as a part of preparing  
25 this document?